

### **REMARKS/ARGUMENTS**

Claims 1, 2, 4-12, 15 and 17-32 remain pending in the application. Claim 16 has been canceled and claim 1 has been amended without prejudice or disclaimer of any previously claimed subject matter. Applicants reserve the right to prosecute any withdrawn or canceled subject matter in one more continuation or divisional applications.


The Examiner has again rejected pending claims 1, 2, 4-12 and 15-32 under 35 U.S.C. § 102(e) over U.S. Patent No. 5,728,575 to Liotta and Choi. The '575 patent discloses a process for the resolution of a racemic mixture of nucleosides including the step of exposing the mixture to an enzyme. The claims as amended recite a process for the resolution of a compound of Formula A that includes contacting the organic and aqueous components to form a non-homogeneous system under conditions which permit the resolution of the mixture with a hydrolase enzyme, wherein the enantiomeric mixture is dissolved in the organic component at a concentration of between about 5% and about 45% (claim 1).

The '575 patent does not provide a specific teaching of the resolution of the nucleoside compounds at the described substrate loading using a heterogeneous system. The '575 patent provides only scant teaching of a heterogeneous system, and states that "it is preferred that the hydrolysis be performed under homogeneous conditions" (c.6, 1.21-23). The process described in the present application describes increased loading of hydrophobic substrates in a heterogeneous system over the prior art (see page 5, lines 6-9 of the pending application). The specific examples of the '575 patent describe the resolution of the racemic mixture of FTC in homogeneous systems (see particularly Example 2). Example 2 describes reactions in which the enantiomers are dispersed in acetonitrile at a concentration of approximately 0.9% ( $0.149\text{g}/16\text{ml} = 0.93\%$ ;  $0.375\text{g}/40\text{ml} = 0.94\%$ ; and  $0.037\text{g}/4\text{ml} = 0.93\%$ ). There is no suggestion of using heterogeneous systems specifically with high substrate loading in the '575 patent.

Appl. No. 09/585,166 . . .  
Amdt. dated March 21, 2005  
Reply to Office Action of September 21, 2004

Although Applicants believe no fees are due with this response, the Commissioner is hereby authorized to charge any additional required fees that are not enclosed to Deposit Account No. 11-0980.

Respectfully submitted,

  
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